

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

John Gregory Hanson,

Plaintiff,

v.

Civil No. 14-86 (JNE/FLN)
ORDER

Berry A. Willis,

Defendant.

On September 27, 2013, Berry Willis removed an action from state court. Five days later, a magistrate judge recommended that Willis's application for leave to proceed *in forma pauperis* be denied, that his notice of removal be vacated, and that the action be remanded to state court. Willis objected to the Report and Recommendation. The Court overruled his objection, adopted the Report and Recommendation, denied his application for leave to proceed *in forma pauperis*, and remanded the action to state court. Order, *Hanson v. Willis*, Civil No. 13-2663 (ADM/JSM) (D. Minn. Nov. 1, 2013). Willis appealed. On January 22, 2014, the United States Court of Appeals for the Eighth Circuit summarily affirmed. On February 19, 2014, the Eighth Circuit denied his petition for rehearing en banc and petition for rehearing by the panel. The mandate issued on February 26, 2014.

After the remand order in Civil No. 13-2663 had issued but before the Eighth Circuit summarily affirmed, Willis filed a notice of removal with respect to the very same action that had been remanded in Civil No. 13-2663. In a Report and Recommendation dated February 18, 2014, the magistrate judge recommended that Willis's application for

leave to proceed *in forma pauperis* be denied, that his notice of removal be vacated, and that this action be terminated. Willis objected. The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). Based on that review, the Court accepts the recommendations to deny Willis's application for leave to proceed *in forma pauperis* and to vacate his notice of removal. The Court orders that the action be remanded to state court.¹

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Willis's application for leave to proceed *in forma pauperis* [Docket No. 2] is DENIED.
2. Willis's notice of removal [Docket No. 1] is VACATED.
3. This action is REMANDED to Minnesota District Court, Fourth Judicial District.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 20, 2014

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge

¹ The magistrate judge did not recommend a remand, reasoning that a remand order had already issued in Civil No. 13-2663, a new remand order would be superfluous, and the action would be remanded according to the ruling in Civil No. 13-2663 if the Eighth Circuit affirmed. Before the Report and Recommendation in Civil No. 14-86 issued, the Eighth Circuit had summarily affirmed the judgment in Civil No. 13-2663.